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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,817	07/16/2003	Stephen F. Bisbee	003670-104	1237
7590 Burns, Doane, Swecker & Mathis, L.L.P. P.O. Box 1404 Alexandria, VA 22313-1404			EXAMINER DAVIS, ZACHARY A	
			ART UNIT 2437	PAPER NUMBER
			MAIL DATE 03/24/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# **Notice of Non-Compliant Amendment (37 CFR 1.121)**

Application No.

10/620,817

Examiner

Zachary A. Davis

Applicant(s)

BISBEE ET AL.

Art Unit

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 29 December 2008 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Zachary A Davis/  
Examiner, Art Unit 2437

Continuation of 4(e) Other: The amendments to the claims do not clearly comply with the requirements of 37 CFR 1.121(c)(2), which states that "The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived", noting that double brackets may also be used to show deletion of five or fewer consecutive characters. The amendments to Claim 1 still do not clearly comply with this requirement, noting that it appears that "a" may have been intended to be deleted from line 15 of the claim; however, in the font used, it is difficult to clearly discern whether the character "a" has been indicated by strikethrough. See also MPEP § 714(II)(C)(B). It is noted that the other issues of non-compliance previously set forth in the notice of non-compliant amendment (mailed 25 November 2008) with respect to Claims 1 and 11 do appear to have been clarified by the present response.

Additionally, the amendments to the claims also fail to comply with the requirements of 37 CFR 1.121(c)(2) and (3). It appears that withdrawn claims have been amended without including markings showing the changes. For example, Claim 19 still appears to include text that was added without being marked by underlining as required (see line 15 of the claim). It is noted that withdrawn claims that are amended may be identified with the status identifier (withdrawn- currently amended) also as per 37 CFR 1.121(c)(2).